

# PLANNING COMMISSION MEETING

## A G E N D A

TOWN OF CHINCOTEAGUE

May 22, 2007 - 7:00 P.M. – Council Chambers - Town Hall

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC PARTICIPATION

AGENDA ADOPTION:

---

1. Adoption of April 22, 2007 Minutes (page 2)
2. Planning Director's Update
  - Report on For Sale Signs/ Vacation Rental Signs/Inoperable Vehicles
3. Review of By-Laws (page 6)
4. Sign Ordinance Status
  - Pros and Cons of a Public Hearing Prior to Attorney Review
5. Screening and Fencing in Zoning Ordinance (page 11)
6. Commission Members Announcements or Comments  
(Note: Roberts Rules do not allow for discussion under comment period)

ADJOURN:

# **Town of Chincoteague Planning Commission Meeting**

April 24, 2007

## **Minutes**

### Members Present:

Mr. Robert Behr  
Mr. Thomas Derrickson  
Mr. Ray Rosenberger, Chairman

Mr. Chuck Ward  
Hon. Ellen W. Richardson  
Mrs. Jane Wolffe

### Members Absent:

Mrs. Mollie Cherrix

### Staff Present:

Mr. Kenny Lewis- Building and Zoning Administrator  
Mr. Jared Anderson- Director of Planning

#### 1. Call to Order

Chairman Rosenberger called the meeting to order at 7:00 p.m., followed by the Invocation and the Pledge of Allegiance.

#### 2. Roll Call by Mr. Kenny Lewis

#### 3. Public Participation

NONE

#### 4. Adoption Agenda

There was a motion and a second to adopt the agenda as presented to the Commission.

#### 5. Planning Director's Update

Mr. Jared Anderson gave a personal introduction to the Planning Commission. Mr. Anderson described what activities he has been involved in since starting with the town on March 12<sup>th</sup>. Most mornings he has been riding with Mr. Kenny Lewis to get a feel for the town and to get an idea of the zoning and building code on Chincoteague. Mr. Anderson has also been reviewing both the "Code of Virginia" and the "The Code of the Town of Chincoteague." He has also reviewed the Redman & Johnston Comprehensive Plan Draft and sent a list of comments/questions to the consultants.

Mr. Anderson stated that the Subdivision Ordinance-Roads was discussed during a meeting on April 4<sup>th</sup> between the Town Manager, the Public Works Director, the Mayor, the Planning Director, and the Town's Attorney. The Town Attorney has given his recommendations to the town staff to "fill in the blanks." The document is currently in

staff's hands and they are working on completing the document to send back to the Town Attorney.

The Sign Ordinance is in the hands of the Town's Attorney.

Mr. Rosenberger asked if either is coming back to the Planning Commission. The Subdivision Ordinance will not because it is in Council's hands. The Sign Ordinance will because there still needs to be a public hearing.

Mr. Ward asked if Mr. Anderson has been reviewing the current/adopted Comprehensive Plan or the Draft Plan by Redman & Johnston. Mr. Anderson stated that he has reviewed both of them but has focused on the draft by the consultants and has since sent questions regarding the draft to the consultants for verification.

#### 6. Building and Zoning Administrator's Update

The purpose of the building permit update is to get some sense of the building forecast which might be predicated upon the number of building permits that have been issued. These updates might give the commission a better flavor of what kinds and in what areas there is growth. This will be given out as a monthly or bi-monthly report to the Commission.

In the past months 60-70 building permits per month have been issued which fairly equal to what the county is doing. New Single Family Dwelling Units has dropped off tremendously. The bigger projects are getting held up with sewerage, such as the Birchwood project. Sunset Bay is looking at six additional units on the south end; Mr. Lewis is waiting for information to send to Planning Commission. The campground project on Bunting Road is also being held up by sewerage, and Silver Sail's development off of Willow Street is looking to put in additional units but it is still with the Health Department.

Reed Trailer Park subdivision is going through subdivision review. Mr. Lewis is finding out that people that want to subdivide their land are having trouble getting their plats done to meet the town's requirements of what needs to be on them.

Mr. Rosenberger asked if a variance issued by the BZA issued to the property or the property owner. Mr. Lewis stated that he needs to check into that but he thinks it is the property.

Mr. Ward asked what constitutes a minor subdivision, Mr. Lewis stated that 10 lots or less are considered a minor and do not have to come before the Commission. Mr. Lewis stated that this issue might also want to be looked at.

Mr. Ward stated asked if a person had a nine lot subdivision which would fall under a Minor Subdivision, and then in a couple of months divided the same area into another nine lots would it also be considered a Minor Subdivision. Mr. Lewis stated that if they are

purposely trying to circumvent the law in that case it would be deemed a Major Subdivision.

7. Review of our By-Laws

Mr. Rosenberger stated that the Planning Commission should review the By-Laws annually. In respects to the newly appointed Mr. Ward, Mr. Rosenberger requested that the Commission postpone the review until next meeting. Mrs. Wolffe made a motion to postpone the review of the By-Laws, which was seconded by Mr. Behr.

8. Screening Residential and Commercial Areas

Mr. Rosenberger asked the Commission to look at Staff's recommendation as a discussion point rather than a cause for action.

The purposes of looking at fences, when the PC and BZA had a joint meeting were that the BZA gets many variance requests for fences. Another concern is the aesthetics.

The biggest concern from the joint session was the solid construction fences all the way up to the front of the structure, might create a walled effect if everyone has them.

There was confusion on the wording of the recommendation, there might be a need to reword. Language that maybe argued, "remainder of property", if there are odd shaped lots it could lead to unintended consequences. Mr. Lewis recommended changing language to read. "A six foot solid fence shall not start within 25 ft from front setback.

Mr. Ward has concerns about there being no setback for front property lines for fencing. Currently someone is allowed to build a 4 foot fence 30% open on the front property line. There are some concerns with safety such as someone walking along a road where the right of way and fence are very close together and it becomes a safety hazard. Mr. Lewis stated that on Cropper/ Cleveland St. where people own all the way to the next street over. Even with the line of sight, a 4ft. open fence is hard to see through over.

Mr. Rosenberger stated that a front lot line setback might work, but cautioned about implementing a side-yard setback for fences.

Mrs. Wolffe also brought up decorative columns and posts but it is hard to do now because of current ordinance.

The Commission asked Mr. Anderson to look into this issue further and report back next meeting.

9. Commissioner's Announcements and Comments

VA state certification process CPEAV especially for newly appointed Mr. Ward. Mr. Lewis stated that he thought Council required or recommended all new members to become certified as a Planning Commissioner, Mr. Lewis needs to check into that. Mr. Rosenberger asked whether it was possible to bring the CPEAV people over to the Eastern Shore.

Mr. Ward wanted to Mr. Anderson to give an update on the Comp. Plan the status. What has council discussed, anything been advised about the plan. Mr. Anderson stated that there was a meeting with the Consultants, Mr. Rosenberger, Mayor, Town Manager, and Building and Zoning Administrator. There is communication between staff and the consultants particularly in regards to the February public hearing and the issues that were raised by the public.

Mrs. Wolffe wanted to discuss the subdivision ordinance specifically with firefighters having access to the condominiums units. She discussed concerns about the Town Attorney also being the Attorney for Sunset Bay development, there might be a conflict of interest. Mr. Behr asked if the town has hired a second legal source, Mr. Rosenberger thought the town has under retainer a second legal source.

For the sign ordinance the Planning Commission has not held a public hearing, but is with the Town Attorney for review.

Mr. Behr stated that the Commission decided to create a subcommittee for the Architectural and Historic review. The sub-committee has yet to have an issue to look at specifically.

Mrs. Richardson made a motion to adjourn, seconded by Mr. Behr.

By-Laws  
Chincoteague Planning Commission  
September 28, 2004

ARTICLE 1 – OBJECTIVES

- 1-1. This Commission, established in conformance with the resolution adopted by the Chincoteague Town Council \_\_\_\_\_, 2004, has adopted the following Articles in order to facilitate its powers and duties in accordance with the provisions of Title 15.2, Chapter 22, Article 2 of the Code of Virginia.
- 1-2. The official title of this Commission shall be “The Chincoteague Planning Commission.”

ARTICLE 2 – MEMBERS

- 2-1. Said commission shall consist of seven (7) members, one of whom shall be a member of the Town Council, and the remaining six (6) hereafter referred to as appointed members. Such members shall be residents of the locality and be a minimum of 50% owner of real property.
- 2-2. The term of the council person shall in all cases correspond to their tenure of office. Of the other members first appointed, one (1) shall be appointed for a term of one (1) year, one (1) shall be appointed for a term of two (2) years, one (1) shall be appointed for a term of three (3) years, and one (1) shall be appointed for a term of four (4) years, from and after the effective date of this resolution. Their successors shall be appointed for terms of four (4) years. Any vacancy in membership shall be filled by an appointment by the Council and such appointment, in the case of an appointed member, shall be for the unexpired term. Any appointed member may be removed by the Council for inefficiency, neglect of duty or malfeasance in office, provided that such removal may be made only after a public hearing at which said member is given an opportunity to appear and be heard on the charges against him.
- 2-3. The term of a Commission member shall expire on December 31 at which meeting his successor’s term of office shall begin.

ARTICLE 3 – OFFICERS AND THEIR SELECTION

- 3-1. The officers of the Planning Commission shall consist of a Chairperson, a Vice-Chairperson and a Secretary.

- 3-2. Nomination of officers shall be made from the floor at the regular September meeting each year. Election of officers shall follow immediately.
- 3-3. A candidate receiving a majority vote of the entire membership of the Planning Commission shall be declared elected. Such candidate shall take office immediately and serve for one (1) year or until his/her successor shall take office.
- 3-4. Vacancies in office shall be filled immediately by regular election procedures.

## ARTICLE 4 – DUTIES OF OFFICERS

- 4-1. The Chairperson shall be a member of the Commission and shall:
  - 4-1-2. Preside at all meetings.
  - 4-1-3. Rule on all procedural questions (subject to a reversal by a two-thirds (2/3) majority vote by the members present.)
  - 4-1-4. Be informed immediately of any official communication and report same at the next regular meeting.
  - 4-1-5. Carry out other duties as assigned by the Commission.
- 4-2. The Vice-Chairperson shall be a member of the Commission and shall:
  - 4-2-1. Act in the absence or inability of the Chairperson to act.
  - 4-2-2. Have power to function in the same capacity as the Chairperson in cases of the Chairperson's inability to act.
- 4-3. The Secretary shall:
  - 4-3-1. Keep a written record of all business transacted by the Commission.
  - 4-3-2. Notify all members of all meetings.
  - 4-3-3. Keep a file of all official records and reports of the Commission.
  - 4-3-4. Certify all maps, records, and reports of the Commission.
  - 4-3-5. Give notice of all hearings and public meetings.
  - 4-3-6. Attend to the correspondence of the Commission.
  - 4-3-7. Prepare and be responsible for the publishing of advertisements relating to public hearings.

## ARTICLE 5 – DUTIES OF OFFICERS

- 5-1 At such times that the complexity of duties facing the Commission shall require the advice of standing committees, the following shall be appointed by the Chairperson to serve as needed:
- 5-1-1. A Comprehensive Plan Committee. It shall coordinate the work of the other committees as it progresses and relate it to the overall program and keep the comprehensive plan developing in a realistic and reasonable manner.
  - 5-1-2. A Land Use Committee. It shall initially determine, and then continue to maintain an inventory of land uses. This committee shall also be responsible for the preparation of land use maps.
  - 5-1-3. A Subdivision Committee. This committee should draft subdivision regulations and any subsequent amendments. They shall examine all applications for major subdivisions, receive the reviews of the staff pertaining to them, and make recommendations to the Commission.
  - 5-1-4. A Zoning Committee. This committee should draft zoning ordinances and/or any subsequent amendments. They shall review all applications for rezoning or special use permits. When authorized by law, they shall hold public hearings, receive the views of the staff pertaining to the issue, and make recommendations to the Commission.
  - 5-1-5. A Street, Traffic and Parking Committee. They shall study the location, relocation, opening, closing or widening of streets, alleys, right-of-ways and limited access thoroughfares as well as control and expediting of traffic and provision for adequate parking. This committee shall initiate pertinent action and make recommendations to the Commission. Public and private hearings may also be conducted.
  - 5-1-6. A Capital Improvements Committee. They shall study the economics of capital improvements as it relates to the use of land to be made by the Town. This may be done independently or in conjunction with affected governmental agencies. Such study shall include need, priority of need, cost financing, joint use and participation, location, and relative status either within or without the views of the staff relative to the issues and make any recommendation deemed pertinent to the Commission are further duties of the committee.
- 5-2. Special committees may be appointed by the Chairperson for purposes and terms approved by the Commission.
- 5-3. The Chairperson shall be an ex officio member of every committee.



## ARTICLE 6 – MEETINGS

- 6-1. Regular meetings of the Commission shall be held on the fourth Tuesday of each month at 7:00 p.m. excluding the months of July and December. When a meeting falls on a legal holiday, the meeting shall be on the day following unless otherwise designated by the Commission. Such meetings must be held in a public building.
- 6-2. Special meetings shall be called at the request of the Chairperson or at the request of a quorum of the membership.
- 6-3. All regular meetings, hearings, records, and accounts shall be open to the public.
- 6-4. A majority of the membership of the Commission shall constitute a quorum. The number of votes necessary to transact business shall be a majority of the entire membership. Voting may be by roll call, in which case a record shall be kept as a part of the minutes.

## ARTICLE 7 – ORDER OF BUSINESS

- 7-1. The order of business for a regular meeting shall be:
  - 7-1-1. Call to order by Chairperson.
  - 7-1-2. Roll call.
  - 7-1-3. Determination of a quorum.
  - 7-1-4. Pledge of allegiance.
  - 7-1-5. Reading of the minutes.
  - 7-1-6. Review of agenda.
  - 7-1-7. Old business.
  - 7-1-8. New business.
  - 7-1-9. Adjournment.
- 7-2. Parliamentary procedure in Commission meetings shall be governed by Roberts's Rules of Order, Revised.
- 7-3. The Planning Commission shall keep a set of minutes of all meetings, and these minutes shall become a public record.

The Chairperson shall sign all minutes, and at the end of the year shall certify that the minutes of the preceding year are a true and correct copy.

## ARTICLE 8 – HEARINGS

- 8-1. In addition to those required by law, the Commission, at its discretion, may hold public hearings when it decides that a hearing will be in the public interest.
- 8-2. Notice of special hearings shall be published once a week for two successive weeks in a newspaper of general circulation in the area not less than five (5), nor more than twenty-one (21) days before the time of public hearing.
- 8-3. The case before the Commission shall be summarized by the Chairperson or other member delegated by the Chairperson. Interested parties shall have the privilege of the floor. Records or statements shall be recorded or sworn to as evidence for any court of law, only after notice is given to the interested parties.
- 8-4. A record shall be kept of those speaking before the hearing.

## ARTICLE 9 – CORRESPONDENCE

- 9-1. It shall be the duty of the Secretary to draft and sign all correspondence necessary for the execution of the duties and functions of the Planning Commission.
- 9-2. All official papers and plans involving the authority of the Commission shall bear the signature of the Chairperson and Vice-Chairperson.

## ARTICLE 10 – AMENDMENTS

- 10-1. These rules may be changed by a recorded two-thirds (2/3) vote of the entire membership of the Commission subject to approval from the Town Council after thirty (30) days notice.

# MEMORANDUM

To: Planning Commission  
From: Jared B. Anderson, Town Planner  
Date: May 16, 2007  
Subject: Screening and Fencing, Zoning Ordinance

This Memorandum is reference to proposed changes to the current language of the zoning ordinance, specifically sections that pertain to fencing. These recommended changes reflect some of the comments made during the April 22, 2007 Planning Commission Meeting. Please review and if you have any questions please feel free to contact me (email: [jared@chincoteague-va.gov](mailto:jared@chincoteague-va.gov), or 336-6519).

---

The Staff is recommending to the Planning Commission the following motion:

**“Move to make a recommendation to amend Sections 3.1.5., 3.4.7, 3.7.16, 3.10.21, 4.1.27, 4.4.39 of the Zoning Ordinance to read as follows:”**

(1) All fences to be located from a point even with the ~~rear~~ **front** of the main structure (excluding open decks and open porches) extending to the front lot line shall have a maximum height of ~~four feet~~ **42 inches** and shall be at least 30 percent open space when viewed at any point perpendicular (90° angle) to the fence line, regardless of construction materials. Any fence on the remainder of the property shall have a maximum height of six feet and may be of solid construction. **A fence 6 feet in height and made of solid construction shall not start within 25 feet of the front property line.** A fence previously in compliance with this section may remain in place if a new addition is constructed to an existing residence.

**(a) All fences located along the front lot line or along a property line that is adjoining a right-of-way shall be set back from the property line a minimum of 2 feet.**

(2) As to any lot on which there is no existing main structure, all fences shall have a maximum height of ~~four feet~~ **42 inches** and shall be at least thirty percent open space, when viewed at any point perpendicular (90° angle) to the fence line, except for a fence erected or constructed along the rear lot line which may have a maximum height of six feet and may be of solid construction.

(3) Fully enclosed containment fences of solid construction may be erected to enclose aboveground sewage disposal systems and fuel storage tanks. Such containment fences shall not extend more than three feet beyond the perimeter of that to be enclosed. The containment fence shall not extend more than one foot above that to be enclosed and shall not exceed a maximum height of six feet. Such containment fences shall not be placed closer than five feet from any side or rear lot line and shall not be placed closer than 15 feet from the front lot line.